

Nuclear Regulatory Commission

§ 75.4

INSTALLATIONS DESIGNATED FOR IAEA SAFEGUARDS

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AUTHORITY: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

SOURCE: 45 FR 50711, July 31, 1980, unless otherwise noted.

GENERAL PROVISIONS

§ 75.1 Purpose.

This part establishes a system of nuclear material accounting and nuclear material control to implement, with respect NRC and Agreement State licensees, the Agreement between the United States and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States.

§ 75.2 Scope.

(a) Except as provided in § 75.3, the requirements in this part apply to all persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation, as defined in § 75.4(k), on the United States eligible list. They also apply, to the extent specified in §§ 50.78, 40.31(g), 70.21(g), and 150.17a of this chapter, to holders of construction permits and to persons who intend to receive source material or special nuclear material.

(b) The United States eligible list is a list of installations eligible for IAEA safeguards under the US/IAEA Safeguards Agreement which the Secretary of State or his designee files with the Commission. A copy of this list is available for inspection at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room. In

accordance with the provisions of the Agreement, the following activities are excluded from the United States eligible list:

(1) Activities having direct national security significance.

(2) Activities involving mining and ore processing.

[45 FR 50711, July 31, 1980, as amended at 53 FR 43422, Oct. 27, 1988; 64 FR 48954, Sept. 9, 1999]

§ 75.3 Exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this part that it determines are authorized by law and consistent with the Agreement, are not inimical to the common defense and security, and are otherwise in the public interest.

(b) Without limiting the generality of paragraph (a) of this section, an exemption under this section may be granted with respect to nuclear material of the following types:

(1) Special nuclear material in gram quantities or less as a sensing component in instruments;

(2) Nuclear material used in non-nuclear activities, if such nuclear material is recoverable, and

(3) Plutonium with an isotopic concentration of plutonium-238 exceeding 80 percent.

§ 75.4 Definitions.

As used in this part:

(a) Unless otherwise defined in this section, the terms defined in §§ 40.4, 50.2, and 70.4 of this chapter have the same meaning when used in this part.

(b) *Agreement*, except as used in the term *Agreement State*, means the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States. Unless otherwise specified, the term refers both to the principal text of the Agreement, consisting of 90 articles, and to the Protocol thereto.

(c) *Agreement State* as designated in part 150 of this chapter means any State with which the Commission has entered into an effective agreement under subsection 274b. of the Act.

(d) *Batch* means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

(e) *Containment*¹ means:

(1) The application of any devices designed to limit the mobility of nuclear material, the access of personnel, or the unauthorized operation of equipment such as transfer valves and sampler lines; and

(2) Structural elements, including the design of buildings and layout of equipment, which minimize and control access to nuclear material.

(f) *Effective kilogram* means a unit used in safeguarding nuclear material. The quantity is:

(1) For special nuclear material: The amount specified in § 70.4 of this chapter.

(2) For source material: The amount specified in § 40.4(q) of this chapter.

(g) *Facility Attachment* means that portion of the Subsidiary Arrangements to the principal text of the Agreement that pertains to a particular installation that has been identified pursuant to Article 39(b) thereof.

(h) *IAEA* means the International Atomic Energy Agency or its duly authorized representatives.

(i) *IAEA material balance area* means an area established for IAEA accounting purposes, such that:

(1) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(2) The physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures.

(j) *Identification under the Agreement* means identification by the IAEA pursuant to Article 39(b) of the principal text of the Agreement or Article 2(a) of the Protocol.

(k) *Installation* means:

(1) A production facility or utilization facility as defined in § 50.2 of this chapter;

(2) A uranium hexafluoride production plant;

(3) A fuel fabrication plant;

(4) An independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) as defined in § 72.3 of this chapter; or

(5) Any location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to parts 40, 60, 63, or 70 of this chapter or an Agreement State license.

(6) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enrichment uranium in the isotope 235.

(l) *Inventory change* means an increase or decrease, established in accordance with the procedures required by this part, in terms of batches of nuclear material in an IAEA material balance area.

(m) *Key measurement point* means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.

(n) *Nuclear material* means any source material or any special nuclear material.

(o) *Ore processing* means uranium milling and other procedures for producing U_3O_8 from uranium ore or from uranium concentrates produced as a byproduct from phosphate or other non-nuclear chemical production plants.

(p) *Surveillance* means instrumental or human observation to indicate or detect the movement of nuclear material.

(q) *Transitional Facility Attachment* means that portion of the Transitional Subsidiary Arrangements to the Protocol to the Agreement that pertains

¹The term refers to nuclear material safeguards rather than radiological protection.

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to a particular installation that has been identified pursuant to Article 2(a) thereof.

(r) *United States eligible list* means the list of installations described in § 75.2.

[45 FR 50711, July 13, 1980, as amended at 46 FR 58283, Dec. 1, 1981; 53 FR 31683, Aug. 19, 1988; 57 FR 18393, Apr. 30, 1992; 57 FR 33432, July 29, 1992; 63 FR 26963, May 15, 1998; 66 FR 55816, Nov. 2, 2001]

§ 75.5 Interpretations.

Except as authorized specifically by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

(a) All information and reports required to be submitted pursuant to the provisions of this part and other communications concerning the regulations in this part shall be delivered as follows:

Item	Section	Manner of deliver
IAEA Representative ..	75.7	To the Cognizant Director.
Facility Attachments ...	75.8	Do.
Installation Information	75.11	Do.
Sensitive Information ..	75.12	Do.
Verification of Installation Information.	75.13	Do.
Supplemental Information.	75.14	Do.
General Requirements (Amplification).	75.31	As specified in the request.
Initial Inventory Report	75.32	In accordance with printed instructions for preparation of DOE/NRC Form-742.
Inventory Change Reports.	75.34	In accordance with printed instructions for preparation of DOE/NRC Form-741, and -740M.
Material Status Reports.	75.35	In accordance with printed instructions for preparation of DOE/NRC Form-742, -742C, and -740M.
Special Reports	75.36	To the Regional Office of the NRC.
Inspection	75.42	Do.
Transfers (advance notification).	75.43	Do.
Delays	75.44	Do.

Item	Section	Manner of deliver
Other Communications	To the cognizant Director.

(b) If an installation is a nuclear power plant or a non-power reactor for which a construction permit or operating license has been issued, whether or not a license to receive and possess nuclear material at the installation has been issued, the cognizant Director is the Director, Office of Nuclear Reactor Regulation. For all other installations, the cognizant Director is the Director, Office of Nuclear Material Safety and Safeguards.

(c) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Reactor Regulation (or Director, Nuclear Materials Safety and Safeguards, as appropriate), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(d) Communications to the Regional Office of the NRC shall be addressed to the office listed in Appendix A of part 73 of this chapter for the region in which the installation is located.

(e) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the